



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Assembly Consumer Protection and Personal Privacy Committee Hearing, February 21, 2008

Assembly Bill 771 - Relating to: use of a social security number as personal identifier in the administration of a state or local governmental program (Representative Lothian)

Description of Current Law and Proposed Change

The bill prohibits state agencies and local governments from using social security numbers (SSNs) as identifiers effective January 1, 2009. This prohibition applies to agencies' work in administering all state programs except when the use of SSN:

- is required by state or federal law or regulation
- is specifically authorized by state law
- receipt of federal aids is conditioned upon the use

Violators are subject to a penalty of up to \$500 for each violation.

Fairness/Tax Equity

- The bill is intended to ensure the protection of the personal information of Wisconsin citizens.
- The bill would prompt the use of alternative identifiers for administrative purposes for state agencies and local governments that lack specific authority to use SSNs or for purposes other than that required by state or federal law.

Administrative Impact/Fiscal Effect

- In an effort to safeguard taxpayer private information, the Department of Revenue (DOR) no longer uses SSNs in correspondence with taxpayers unless specifically required to do so by federal law.
- However, DOR is specifically **authorized by federal law** [42 U.S.C. § 405(c)(2)(C)(i), (iv)] to use the SSN for tax administration purposes. The SSN is necessary to ensure that DOR:
 1. posts income tax returns to the correct individual tax accounts;
 2. matches employer withheld taxes and quarterly estimated income tax payments to the right income tax returns;
 3. matches federal tax return information to state tax return information and vice versa;
 4. certifies wages of the right taxpayer for delinquent taxes;
 5. matches bank and payer information returns to the right taxpayers;
 6. levies the right bank accounts for delinquent tax collections;
 7. offsets federal refunds against delinquent state taxes and vice versa;
 8. offsets state tax refunds against delinquent taxes, other state agency, and local government debts.

- There is no other number that is used by all federal, state and local governments as well as businesses such as banks, employers, corporations that pay dividends, etc.
- The bill would result in reduced audit collections due to the inability to match tax return information with other information used for compliance purposes (e.g., withholding information, informational returns, federal tax returns). The revenue loss is not estimable but is expected to be sizable.
- The bill would result in \$607,000 of increased administrative costs to resolve return processing issues that would arise without SSNs to link taxpayer information. There would also be significant costs for technological changes.
- If the bill was amended to allow the use of SSNs when authorized by state and federal laws and regulations, the bill would be estimated to have a minimal fiscal effect and would have no administrative costs.

DOR Position

The department cannot support the bill as drafted; however, the department would support the bill if it was modified to provide an additional exception for agencies use of SSNs as **"authorized" by state or federal law or regulation**. Assembly Amendment 1 does not fully address this concern because it does not allow the use of SSNs as authorized by state regulation.

Contact: Sherrie Gates-Hendrix, (608) 267-1262

BC:kg

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OFFICE:

306 North State Capitol
Post Office Box 8952
Madison, WI 53708

(608) 266-1190
Fax: (608) 282-3632
Toll-Free: (888) 529-0032
Rep.Lothian@legis.state.wi.us

District

539 Park Ridge Road
Williams Bay, WI 53191
(262) 245-5901

THOMAS A. LOTHIAN

STATE REPRESENTATIVE

Rep. Tom Lothian
Assembly Bill 771 – Public Hearing
Assembly Committee on Consumer Protection & Personal Privacy
February 21, 2008

32ND DISTRICT

Cities:

Delavan, Lake Geneva

Towns:

Bloomfield, Darien,
Delavan, Geneva, Linn,
Lyons, Sharon,
Walworth, Wheatland

Villages:

Darien, Fontana,
Genoa City, Sharon,
Walworth, Williams Bay

Given recent privacy breaches of social security numbers in state government, I am introducing AB 771. This bill will prohibit state and local governments from utilizing social security numbers as personal identifying numbers in government programs. This bill does allow for the use of these numbers when required by state or federal law, however when not specifically required, no governmental agency at any level should use these numbers.

While both DOR and DHFS have reported to the committee new policies being implemented or which have already been implemented, this bill will direct other departments as well as local governments to discontinue this dangerous practice.

The bill provides for a civil penalty of \$500 per violation. This is important because without some sort of penalty, there would be no incentive for people to follow this directive from the Legislature.

By eliminating the use of these numbers as personal identifiers, we greatly decrease the probability of these numbers falling into the wrong hands.

I would like to note that I have offered an Amendment to the legislation based on discussions with the Governor's office. The amendment clarifies that the numbers can only be used when required or authorized by state or federal law, as well as aligning the effective date of the legislation with a new fiscal year to address any fiscal issues associated with the legislation. Thank you.

Department of Workforce Development
Secretary's Office
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-3131
Fax: (608) 266-1784
Email: dwdsec@dwd.state.wi.us



State of Wisconsin
Department of Workforce Development
Jim Doyle, Governor
Roberta Gassman, Secretary

February 21, 2008

Rep. Thomas Lothian
Assembly Committee on Consumer Protection and Personal Privacy
State Capitol Room 306 N
P.O. Box 8952
Madison, WI 53708

Dear Rep. Lothian:

I am writing as legal counsel for the state child support program to provide information on AB 771 related to the use of social security numbers as personal identifiers in the administration of state or local government programs.

The child support program in Wisconsin is administered by the Department of Workforce Development and operated by 71 county and 3 tribal child support agencies. The child support program is federally funded and receipt of that funding is conditioned upon compliance with federal program requirements. There are numerous state and federal laws and program criteria requiring the collection of social security numbers for use in administration of the program. The Federal tax intercept program, federal case registry, national medical support notices and income withholding forms all require the use of SSN's, just to name a few. Federal certification criteria also require the use of SSN's in the KIDS system, our automated system for recordkeeping on child support cases.

We have over 150,000 active child support cases. It would be impossible to administer the child support program without the use of SSN's to ensure that when enforcement actions are taken, we have identified the correct individual. We appreciate the need to protect the identity of individuals and our program is governed by strict confidentiality laws. We believe that our program would meet the exceptions under AB 771. However, we ask that you consider an amendment to AB 771 that would exempt the child support program under s.59.53(5).

Please feel free to contact me if you have questions.

Sincerely,

Connie M. Chesnik
Attorney
(608) 267-7295



What is the Wisconsin Coalition for Consumer Choice (WCCC)?

- Advocacy organization working to unite consumer, financial & privacy organizations that are committed to maintaining and advancing consumer choice and privacy in Wisconsin's marketplace
- The WCCC is a conduit between customers who utilize financial products/services & legislators who are interested in their perspective and story
- We will work on any and all proposals that further regulate, oversee or monitor consumers and the financial services they utilize in ways that would violate their privacy or limit their consumer choices in WI
- As of February, 2008 the WCCC is supported by over 14,000 Wisconsin consumers
- WCCC currently focused on the following policy areas:
 - Disclosure of social security numbers
 - Prohibiting use of social security numbers
 - State do not call list
 - REAL ID
 - Opposition to state and federal sponsored data bases

WCCC Supports Passage of AB 711

Background

- Government-sponsored privacy breaches are not isolated incidents
 - According to a recent analysis by USA Today, over 80 government agencies have reported data losses or security breaches in 2007 alone
 - The U.S. Government Reform Committee reports that all 19 federal government departments and agencies reported at least one loss of personally identifiable information since Jan. 2003.
 - Only a small number of the data breaches reported to the Committee were caused by hackers
- The Identity Theft Resource Center has reported more than 79 million instances of identity theft and compromised records in 2007
 - A nearly fourfold increase from 2006

Problem

- SSN have become like gold in the cybercrime underworld
- Breaches occur due to inadequate information handling of which contain Social Security numbers
- State Government is providing the number one asset to cyber criminals

Solution

- Solution is simple – eliminate SSN as identifier
- State Government eliminating all information that contain SSN's (minus federal and state requirements) is must passage this session
 - Realize this is easier said than done – but elimination of SSN is the one and only action that will ensure SSN are not available to the viewing public
- Effective Date of January 1, 2009 is reasonable to achieve